

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Achievement LLC,
Appellant,

v.

City of Clinton Board of Review,
Appellee.

ORDER

Docket No. 13-102-0133
Parcel No. 80-63650002

On January 21, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Achievement LLC was represented by Craig Miller, President of the Clinton Auto Group which owns Achievement. Attorney J. Drew Chambers represented the Board of Review. Both parties participated by telephone. The Appeal Board now, having heard the testimony, examined the entire record, and being fully advised, finds:

Findings of Fact

Achievement LLC is the owner of property located at 2850 Valley West Drive, Clinton, Iowa. The real estate was classified commercial on the January 1, 2013, assessment and valued at \$1,004,800, representing \$954,800 in land value and \$50,000 in improvement value. According to the property record card, the subject is 6.820 acres with yard improvements. A new building will be constructed but was not complete as of the assessment date.

Achievement protested the assessment to the City of Clinton Board of Review on the grounds that the assessment was not equitable as compared with the assessments of other like property; the property was assessed for more than authorized by law; and there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1), (2), and (4). Achievement's error claim was essentially akin to an

over assessment claim. It asserted the correct fair market value is \$585,000. The Board of Review denied the protest.

Achievement LLC then appealed to this Board. At hearing, the evidence Achievement submitted related only to its over assessment claim. For this reason we will not address its claim of inequity. It asserted the subject property should be valued between \$533,165 and \$575,000, as of January 1, 2013.

Craig Miller testified on its behalf. He explained Achievement LLC purchased the subject site in June 2012 for \$575,000 and that it is located in a tax increment financing (TIF) district. Miller further explained the \$575,000 purchase agreement was subject to the certification that the site was 100% above FEMA flood plain. Therefore, a \$20,000 escrow account was set up until work was completed on the certification. Miller explained that \$41,835 was ultimately the total cost to meet the FEMA criteria, resulting in a net purchase price of \$533,165.

Miller asserts the purchase price determines the value of a property. Miller testified that improvements made to the site, including grading, foundation work, and utility work (underground water/sewer attachment) were not relevant. He asserts these improvements would not add value and may actually devalue the property because a future purchaser may not want the same improvements. Miller did not provide any support for his opinion that these improvements would not add value to the site, or that the improvements in fact, resulted in a lower market value for the site. Moreover, the improvements exist now and should be valued.

Chuck Swanson, a member of the City of Clinton Board of Review, provided brief testimony on its behalf. When questioned how the Board of Review determined the assessment as of January 1, 2013, Swanson simply stated “the purchase price plus improvement.” We note the Board of Review did not determine the January 1, 2013 assessment; rather, it affirmed the assessment set by the Assessor.

Miller questioned Swanson how the improvement cost figures were developed. Swanson was unable to answer with an itemized list, but stated Achievement had provided the total cost of improvement of \$429,800 to the Board, which is the figure it relied on. Ultimately, we give Swanson's limited testimony no consideration. Despite the Swanson's limited testimony, Achievement bears the burden in this case and has not proved the property is over assessed through recognized methods.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* However, the "sales price of the subject property in a normal sales transaction . . . does not

conclusively establish [market] value.” *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

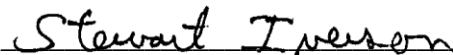
In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Achievement LLC did not offer any evidence of the subject property’s fair market value, such as adjusted comparable properties or an appraisal to support its claim of over assessment; and thus, it has failed to meet its burden on appeal.

THE APPEAL BOARD ORDERS the 2013 assessment of the Achievement LLC’s property located at 2850 Valley West Drive, Clinton, Iowa, is affirmed.

Dated this 17th day of February 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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